

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

**NOTICE OF HEARING AND MOTION FOR AN ORDER
AUTHORIZING SALE OF ASSETS FREE AND CLEAR OF LIENS**

Parties specified in Local Rule 9013-3.

1. Randall L. Seaver, the duly-appointed Chapter 7 Trustee in the above-referenced bankruptcy case ("**Trustee**"), moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion on November 25, 2009 at 10:30 a.m. before the Honorable Robert J. Kressel in Courtroom 8 West, 300 South Fourth Street, Minneapolis, Minnesota 55415, or as soon thereafter as counsel may be heard.

3. Any response to this motion must be filed and delivered no later than November 20, 2009 which is three (3) days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than November 16, 2009, which is seven (7) days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§157 and 1334, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rules 1070-1 and 1073-1. This

is a core proceeding. This case was commenced as a voluntary Chapter 7 proceeding on June 4, 2009. The case is now pending before this Court.

5. This Motion arises under 11 U.S.C. §363(b)(f) and (m) and Bankruptcy Rule 6004. The Trustee seeks to sell nonexempt property of the estate to TCF National Bank. ("**TCF**"). More specifically, the Trustee seeks to sell to TCF the property listed on Exhibit A attached hereto all of which property has been located at 1492 Hunter Drive, Medina, MN 55391, together with all other personal property of the Debtor's estate located thereon (collectively, the "**Property**").

6. The Property will be sold to TCF for the sum of \$65,000.00, which amount, based upon the Trustee's investigation, is a fair and reasonable price.

7. The Trustee does not believe that any party holds a perfected non-avoidable security interest in the Property. Tamitha Hecker, the Debtor's spouse, may claim an interest in the Property on behalf of herself and her children. However, the sale will be free and clear of any interests, liens, charges, claims, pledges and security interests and other encumbrances (collectively, "**Encumbrances**"). The interests, if any, of any purported secured creditors and Tamitha Hecker in the Property will attach to the sale proceeds with the same dignity and priority as those held at the commencement of this case.

8. Prior to the hearing on this Motion, the Trustee will entertain bids for the Property that exceed TCF's offer. However, any higher offer would have to include removal of the Property from the 1492 Hunter Drive, Medina, MN location without damage to TCF's other collateral. The Trustee will inform TCF if he receives any offer that he considers to be a higher and better offer, and TCF will have an opportunity, at its sole discretion, to submit another bid for the Property.

9. Pursuant to Local Rule 9013-2(c), the Trustee gives notice that he may, if necessary, testify at the hearing regarding the proposed sale.

WHEREFORE, the Trustee moves the court for an order as follows:

1. Authorizing the sale of the sale of the Property to TCF for the sum of \$65,000.00 free and clear of any Encumbrances, with the claimed liens of any claimed secured parties attaching to the sale proceeds with the same dignity and priority as those claimed liens held at the commencement of this case.

2. Authorizing the sale of the Property to any other higher bidder on the terms contemplated herein and such terms as are acceptable to the Trustee.

**LEONARD, O'BRIEN
SPENCER, GALE & SAYRE, LTD.**

/e/ Matthew R. Burton

Dated: November 4, 2009

By _____
Matthew R. Burton, #210018
Attorneys for Randall L. Seaver, Trustee
100 South Fifth Street, Suite 2500
Minneapolis, Minnesota 55402
(612) 332-1030

VERIFICATION

I, Randall L. Seaver, Trustee of the Bankruptcy Estate of Dennis E. Hecker, the moving party named in the foregoing Notice of Hearing and Motion for an Order Authorizing Sale of Assets Free and Clear of Liens, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

/e/ Randall L. Seaver

Dated: November 4, 2009

Randall L. Seaver, Trustee

411919

EXHIBIT A

PERSONAL PROPERTY TO BE SOLD

All fixtures, furniture, furnishings, maintenance equipment and other personal property of the Debtor that is located in, or on, the land and buildings located at 1492 Hunter Drive, Medina, Minnesota 55391, including, without limitation, all chandeliers, lamps and other lighting fixtures, all washers, dryers and other appliances (whether built in or removable), all carpeting, rugs, furniture, bookcases, shelving, art work (including all pictures, wall hangings and tapestries, statues and miscellaneous bookends and clocks), all video/security equipment, all TVs, home theater equipment, and other electronics, all lawn and garden equipment, all cookware and glassware, a piano, and all pool table equipment, ping-pong tables, jukeboxes, exercise equipment, video games and other miscellaneous toys.

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

BKY No. 09-50779

In re:

Chapter 7

Dennis E. Hecker,

Debtor.

UNSWORN CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2009, I caused the following documents:

Notice of Hearing and Motion for an Order Authorizing Sale of Assets Free and Clear of Liens and Order (proposed)

to be filed electronically with the Clerk of Court through ECF, and that the above documents will be delivered by automatic e-mail notification pursuant to ECF and this constitutes service or notice pursuant to Local Rule 9006-1(a).

I further certify that I caused a copy of the foregoing documents to be e-mailed to the following:

Daniel C. Beck	dbeck@winthrop.com
Alan L. Zeiger	Zeiger@BlankRome.com
Michael T. Kallas	mkallas@kallas-law.com
Robert P. Laue	rpl@edinalaw.com
Craig Howse	chowse@howselaw.com

I further certify that I caused a copy of the foregoing documents to be mailed by first class mail, postage paid, to the following:

SEE ATTACHED SERVICE LIST

/e/ Stephanie Wood

Dated: November 4, 2009

Stephanie Wood
100 South Fifth Street, Suite 2500
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(612) 332-1030

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CROSSLAKE MN 56442

ALLEN EIDE
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MENDOTA HEIGHTS MN 55120

AMERICAN EXPRESS
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BAXTER MN 56425

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AXLE CAPITAL, LLC / SAGECREST
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1843 EAGLE RIDGE DR
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55368

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SUITE 350
SOUTH ST. PAUL MN 55075

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80 SOUTH EIGHTH STREET
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36448 CTY RD 66
CROSSLAKE MN 56442

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CA DEPT OF MOTOR VEHICLES
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SACRAMENTO CA 94269-0001

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ASPEN CO 81611

CITY OF BAYPORT
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BAYPORT MN 55003

CITY OF MEDINA
2052 CO RD 24
HAMEL MN 55340

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VADNAIS HEIGHTS MN 55127

D&H DOCKS
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NISSWA, MN 56468

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TREASURER
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ATTN JENNIFER FRASER
120 MCDONALD STREET SUITE B
SAINT JOHN NB CANADA E2J 1M5

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C/O RICHARD J. SWIFT, JR.
GARLICK STETLER & SKRIVIAN
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3 CAPITAL DRIVE
EDEN PRAIRIE MN 55344

GELCO CORPORATION
THREE CAPITAL DRIVE
ATTN: GENERAL COUNSEL
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IRVINE CA 92619

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MAPLE GROVE MN 55369

HENNEPIN COUNTY TREASURER
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A600 GOVERNMENT CNT
MINNEAPOLIS MN 55487

HOLY CROSS ENERGY
3799 HWY 82
GLENWOOD SPRINGS CO 81602

HOME FEDERAL SAVINGS BANK
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STE 300
ROCHESTER MN 55903

HSBC BANK NEVADA NA
BASS & ASSOCIATES, PC
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LOAN ADJUSTMENT GROUP
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MAPLE GROVE, MN 55311

GEORGE S. DEMOU
19351 TOWER OAKS TRAIL
PRIOR LAKE, MN 55372

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

BKY No. 09-50779

Dennis E. Hecker,

Chapter 7

Debtor.

**ORDER AUTHORIZING SALE OF ASSETS OF
DEBTOR FREE AND CLEAR OF INTERESTS**

This case is before the court on the motion of Randall L. Seaver, trustee seeking an order authorizing a sale of assets free and clear of interests.

Based on the motion and the file,

IT IS ORDERED:

1. The trustee is authorized to sell the property listed as follows:

All fixtures, furniture, furnishings, maintenance equipment and other personal property of the Debtor that is located in, or on, the land and buildings located at 1492 Hunter Drive, Medina, Minnesota 55391, including, without limitation, all chandeliers, lamps and other lighting fixtures, all washers, dryers and other appliances (whether built in or removable), all carpeting, rugs, furniture, bookcases, shelving, art work (including all pictures, wall hangings and tapestries, statues and miscellaneous bookends and clocks), all video/security equipment, all TVs, home theater equipment, and other electronics, all lawn and garden equipment, all cookware and glassware, a piano, and all pool table equipment, ping-pong tables, jukeboxes, exercise equipment, video games and other miscellaneous toys

(the "**Property**") to TCF Bank for the sum of \$65,000.00 free and clear of all interests, liens charges, claims, pledges, security interests and other encumbrances, with the claimed interests, liens, claims, charges, pledges, security interests and encumbrances of any party attaching to the sale proceeds with the same dignity and priority as those claimed liens or interests held at the commencement of this case.

2. The property and rights sold shall be sold free and clear of all interests, liens, claims, charges, pledges, security interests and encumbrances in such property pursuant to 11 U.S.C. §363(a), (b) and (f) with such interests, liens, claims, charges, pledges, security interests and encumbrances, if any, attaching to the proceeds of sale with the same priority, dignity and effect as such interests existed pre-petition.

3. The proceeds shall be deposited in the trustee's account and held subject to further order of the Court.

BY THE COURT:

Dated: _____

Robert J. Kressel
U.S. Bankruptcy Court Judge

411921